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8	BEFORE THE
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Statement of Issues Case No. 2013-4449
12	Against:
13	JEHOVANY LOPEZ-TREVINO STATEMENT OF ISSUES
14	Respondent.
15	
16	Louise R. Bailey, M.Ed., RN ("Complainant") alleges:
17	<u>PARTIES</u>
18	1. Complainant brings this Statement of Issues solely in her official capacity as the
19	Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
20	Affairs.
21	2. On or about December 17, 2010, the Board received an Application for Licensure by
22	Endorsement from Jehovany Lopez-Trevino ("Respondent"). On or about November 23, 2010,
23	Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
24	representations in the application. The Board denied the application on February 13, 2012.
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### **JURISDICTION**

- 3. Pursuant to Business and Professions Code ("Code") section 485(b), on or about February 13, 2012, Respondent's application was denied and he was notified of the right to a hearing to appeal the denial.
- 4. On or about April 9, 2012, Respondent requested a hearing to appeal the denial of his application.

## STATUTORY PROVISIONS

- 5. Code section 2736 provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under Code section 480.
  - 6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for the following:

- (a) Unprofessional conduct....
- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
- 7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- (c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.
- 8. Code section 480 states, in pertinent part:
- (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

- (1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
- (3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
- (B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

#### FIRST CAUSE FOR DENIAL OF APPLICATION

# (Conviction of Crimes)

- 9. Respondent's application is subject to denial under Code sections 2761(f), and 480(a)(1), in that he was convicted of the following crimes that are substantially related to the qualifications, functions or duties of a licensed registered nurse:
- a. On or about December 15, 2003, in the case of *State of Florida v. Jehovany Lopez-Trevino*, (Circuit Court of the 1st Judicial Circuit, Okaloosa County, Case No. 2003 MM 003447 S), Respondent was convicted by the Court on his plea of nolo contendere to violating Florida Statute section 810 et seq. (trespassing).
- b. On or about January 4, 2005, in the case of *State of Florida v. Jehovany Lopez-Trevino*, (Circuit Court of the 1st Judicial Circuit, Okaloosa County, Case No. 2004 CT 003962 S), Respondent was convicted by the Court on his plea of nolo contendere to violating Florida Statute section 316.061(1) (leaving the scene of an accident without giving information with more than \$50 in damage)
- c. On or about January 4, 2005, in the case of *State of Florida v. Jehovany Lopez-Trevino*, (Circuit Court of the 1st Judicial Circuit, Okaloosa County, Case No. 2004 CT 003961 S), Respondent was convicted by the Court on his plea of nolo contendere to violating Florida Statute section 316.193(2A) (driving while under the influence of alcohol or drugs).
- d. On or about November 3, 2005, in the case of *State of Florida v. Jehovany Lopez-Trevino*, (Circuit Court of the 1st Judicial Circuit, Okaloosa County, Case No. 2005 CT 002849 S), Respondent was convicted by the Court on his plea of nolo contendere to violating Florida

Statute section 316.061(1) (leaving the scene of an accident without giving information with more than \$50 in damage).

# SECOND CAUSE FOR DENIAL OF APPLICATION

## (Committed Acts Which If Done By A Licentiate)

Respondent's application is subject to denial under Code section 480(a)(3)(A), in that he committed acts which if done by a licentiate of the profession would constitute grounds for discipline under Code sections 2761(f) (conviction of a crime substantially related to the qualifications, functions or duties of a license holder). The conduct described above in paragraph 9, subdivision (c), would also constitute grounds for discipline under Code sections 2762(c) (convicted of a crime involving the consumption of alcohol); and 2762(b) (used alcoholic beverages to an extent or in a manner dangerous or injurious to himself and the public).

#### PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Denying the application of Jehovany Lopez-Trevino for a Registered Nurse License; and,
  - Taking such other and further action as deemed necessary and proper. 2.

UISE R. BAİLEY, M.ED., R

**Executive Officer** 

Board of Registered Nursing

Department of Consumer Affairs

State of California

Complainant

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